



# House of Representatives

General Assembly

**File No. 692**

January Session, 2017

Substitute House Bill No. 7299

*House of Representatives, April 24, 2017*

The Committee on Judiciary reported through REP. TONG of the 147th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

## **AN ACT CONCERNING STRENGTHENING LAWS CONCERNING DOMESTIC VIOLENCE.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 53a-181d of the general statutes is repealed and  
2 the following is substituted in lieu thereof (*Effective October 1, 2017*):

3 (a) For the purposes of this section, "course of conduct" means two  
4 or more acts, including, but not limited to, acts in which a person  
5 directly, indirectly or through a third party, by any action, method,  
6 device or means, including, but not limited to, electronic or social  
7 media, (1) follows, lies in wait for, monitors, observes, surveils,  
8 threatens, harasses, communicates with or sends unwanted gifts to, a  
9 person, or (2) interferes with a person's property, and "emotional  
10 distress" means significant mental or psychological suffering or  
11 distress that may or may not require medical or other professional  
12 treatment or counseling.

13 (b) A person is guilty of stalking in the second degree when:

14 (1) Such person knowingly engages in a course of conduct directed  
15 at a specific person that would cause a reasonable person to (A) fear  
16 for such person's physical safety or the physical safety of a third  
17 person, or (B) suffer substantial emotional distress; or

18 (2) Such person intentionally, and for no legitimate purpose,  
19 engages in a course of conduct directed at a specific person that would  
20 cause a reasonable person to fear that such person's employment,  
21 business or career is threatened, where (A) such conduct consists of the  
22 actor telephoning to, appearing at or initiating communication or  
23 contact at such other person's place of employment or business,  
24 provided the actor was previously and clearly informed to cease such  
25 conduct, and (B) such conduct does not consist of constitutionally  
26 protected activity.

27 (c) Stalking in the second degree is a class A misdemeanor.

28 Sec. 2. Section 53a-181e of the general statutes is repealed and the  
29 following is substituted in lieu thereof (*Effective October 1, 2017*):

30 (a) A person is guilty of stalking in the third degree when [he] such  
31 person recklessly causes another person to reasonably (1) fear for his  
32 or her physical safety, or (2) suffer substantial emotional distress, as  
33 defined in section 53a-181d, as amended by this act, by wilfully and  
34 repeatedly following or lying in wait for such other person.

35 (b) Stalking in the third degree is a class B misdemeanor.

36 Sec. 3. Section 53a-64aa of the general statutes is repealed and the  
37 following is substituted in lieu thereof (*Effective October 1, 2017*):

38 (a) A person is guilty of strangulation or suffocation in the first  
39 degree when such person commits strangulation or suffocation in the  
40 second degree as provided in section 53a-64bb, as amended by this act,  
41 and (1) in the commission of such offense, such person (A) uses or  
42 attempts to use a dangerous instrument, or (B) causes serious physical  
43 injury to such other person, or (2) such person has previously been  
44 convicted of a violation of this section or section 53a-64bb, as amended

45 by this act.

46 (b) No person shall be found guilty of strangulation or suffocation  
47 in the first degree and unlawful restraint or assault upon the same  
48 incident, but such person may be charged and prosecuted for all three  
49 offenses upon the same information. For the purposes of this section,  
50 "unlawful restraint" means a violation of section 53a-95 or 53a-96, and  
51 "assault" means a violation of section 53a-59, 53a-59a, 53a-59b, 53a-59c,  
52 53a-60, 53a-60a, 53a-60b, 53a-60c, 53a-61 or 53a-61a.

53 (c) Strangulation or suffocation in the first degree is a class C felony.

54 Sec. 4. Section 53a-64bb of the general statutes is repealed and the  
55 following is substituted in lieu thereof (*Effective October 1, 2017*):

56 (a) A person is guilty of strangulation or suffocation in the second  
57 degree when such person restrains another person by the neck or  
58 throat or obstructs such other person's nose or mouth with the intent to  
59 impede the ability of such other person to breathe or restrict blood  
60 circulation of such other person and such person impedes the ability of  
61 such other person to breathe or restricts blood circulation of such other  
62 person.

63 (b) No person shall be found guilty of strangulation or suffocation  
64 in the second degree and unlawful restraint or assault upon the same  
65 incident, but such person may be charged and prosecuted for all three  
66 offenses upon the same information. For the purposes of this section,  
67 "unlawful restraint" means a violation of section 53a-95 or 53a-96, and  
68 "assault" means a violation of section 53a-59, 53a-59a, 53a-59b, 53a-59c,  
69 53a-60, 53a-60a, 53a-60b, 53a-60c, 53a-61 or 53a-61a.

70 (c) Strangulation or suffocation in the second degree is a class D  
71 felony.

72 Sec. 5. Section 53a-64cc of the general statutes is repealed and the  
73 following is substituted in lieu thereof (*Effective October 1, 2017*):

74 (a) A person is guilty of strangulation or suffocation in the third

75 degree when such person recklessly restrains another person by the  
76 neck or throat or obstructs such other person's nose or mouth and  
77 impedes the ability of such other person to breathe or restricts blood  
78 circulation of such other person.

79 (b) No person shall be found guilty of strangulation or suffocation  
80 in the third degree and unlawful restraint or assault upon the same  
81 incident, but such person may be charged and prosecuted for all three  
82 offenses upon the same information. For the purposes of this section,  
83 "unlawful restraint" means a violation of section 53a-95 or 53a-96, and  
84 "assault" means a violation of section 53a-59, 53a-59a, 53a-59b, 53a-59c,  
85 53a-60, 53a-60a, 53a-60b, 53a-60c, 53a-61 or 53a-61a.

86 (c) Strangulation or suffocation in the third degree is a class A  
87 misdemeanor.

88 Sec. 6. Section 53a-222 of the general statutes is repealed and the  
89 following is substituted in lieu thereof (*Effective October 1, 2017*):

90 (a) A person is guilty of violation of conditions of release in the first  
91 degree when, while charged with the commission of a felony, such  
92 person is released pursuant to subsection (b) of section 54-63c,  
93 subsection (c) of section 54-63d or subsection (c) of section 54-64a, and  
94 intentionally violates one or more of the imposed conditions of release.

95 (b) Violation of conditions of release in the first degree is a class D  
96 felony, except that any violation of conditions of release that involve  
97 (1) imposing any restraint upon the person or liberty of a person in  
98 violation of the conditions of release, or (2) threatening, harassing,  
99 assaulting, molesting, sexually assaulting or attacking a person in  
100 violation of the conditions of release is a class C felony.

101 Sec. 7. Section 53a-222a of the general statutes is repealed and the  
102 following is substituted in lieu thereof (*Effective October 1, 2017*):

103 (a) A person is guilty of violation of conditions of release in the  
104 second degree when, while charged with the commission of a  
105 misdemeanor or motor vehicle violation for which a sentence to a term

106 of imprisonment may be imposed, such person is released pursuant to  
107 subsection (b) of section 54-63c, subsection (c) of section 54-63d or  
108 subsection (c) of section 54-64a and intentionally violates one or more  
109 of the imposed conditions of release.

110 (b) Violation of conditions of release in the second degree is a class  
111 A misdemeanor, except that any violation of conditions of release that  
112 involve (1) imposing any restraint upon the person or liberty of a  
113 person in violation of the conditions of release, or (2) threatening,  
114 harassing, assaulting, molesting, sexually assaulting or attacking a  
115 person in violation of the conditions of release is a class D felony.

116 Sec. 8. Section 54-91a of the general statutes is repealed and the  
117 following is substituted in lieu thereof (*Effective October 1, 2017*):

118 (a) No defendant convicted of a crime, other than a capital felony  
119 under the provisions of section 53a-54b in effect prior to April 25, 2012,  
120 or murder with special circumstances under the provisions of section  
121 53a-54b in effect on or after April 25, 2012, the punishment for which  
122 may include imprisonment for more than one year, may be sentenced,  
123 or the defendant's case otherwise disposed of, until a written report of  
124 investigation by a probation officer has been presented to and  
125 considered by the court, if the defendant is so convicted for the first  
126 time in this state or upon any conviction of a felony involving family  
127 violence pursuant to section 46b-38a for which the punishment may  
128 include imprisonment; but any court may, in its discretion, order a  
129 presentence investigation for a defendant convicted of any crime or  
130 offense other than a capital felony under the provisions of section 53a-  
131 54b in effect prior to April 25, 2012, or murder with special  
132 circumstances under the provisions of section 53a-54b in effect on or  
133 after April 25, 2012.

134 (b) A defendant who is convicted of a crime and is not eligible for  
135 sentence review pursuant to section 51-195 may, with the consent of  
136 the sentencing judge and the prosecuting official, waive the  
137 presentence investigation, except that the presentence investigation  
138 may not be waived when the defendant is convicted of a felony

139 involving family violence pursuant to section 46b-38a and the  
140 punishment for which may include imprisonment.

141 (c) Whenever an investigation is required, the probation officer shall  
142 promptly inquire into the circumstances of the offense, the attitude of  
143 the complainant or victim, or of the immediate family where possible  
144 in cases of homicide, and the criminal record, social history and  
145 present condition of the defendant. Such investigation shall include an  
146 inquiry into any damages suffered by the victim, including medical  
147 expenses, loss of earnings and property loss. All local and state police  
148 agencies shall furnish to the probation officer such criminal records as  
149 the probation officer may request. When in the opinion of the court or  
150 the investigating authority it is desirable, such investigation shall  
151 include a physical and mental examination of the defendant. If the  
152 defendant is committed to any institution, the investigating agency  
153 shall send the reports of such investigation to the institution at the time  
154 of commitment.

155 (d) Any information contained in the files or report of an  
156 investigation pursuant to this section shall be available to the Court  
157 Support Services Division for the purpose of performing the duties  
158 contained in section 54-63d and to the Department of Mental Health  
159 and Addiction Services for purposes of diagnosis and treatment.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2017	53a-181d
Sec. 2	October 1, 2017	53a-181e
Sec. 3	October 1, 2017	53a-64aa
Sec. 4	October 1, 2017	53a-64bb
Sec. 5	October 1, 2017	53a-64cc
Sec. 6	October 1, 2017	53a-222
Sec. 7	October 1, 2017	53a-222a
Sec. 8	October 1, 2017	54-91a

**JUD** Joint Favorable Subst.

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

### ***OFA Fiscal Note***

#### ***State Impact:***

<b>Agency Affected</b>	<b>Fund-Effect</b>	<b>FY 18 \$</b>	<b>FY 19 \$</b>
Correction, Dept.; Judicial Dept. (Probation)	GF - Potential Cost	See Below	See Below
Resources of the General Fund	GF - Potential Revenue Gain	See Below	See Below

Note: GF=General Fund

***Municipal Impact:*** None

#### ***Explanation***

The bill expands the offenses of stalking and strangulation and increases the penalty for violations of release for certain offenses and results in a potential cost for increased offenses and results in a potential revenue gain from fines. To the extent that future offenders receive higher fines and longer prison sentences under this bill, potential costs for incarceration or probation supervision in the community, or general fund revenue would result. On average, it costs the state \$7,260 (including benefits) to supervise an inmate in the community as opposed to \$61,320 (including benefits) to incarcerate an offender.

In addition, the bill requires a presentence investigator report for anyone convicted of a family violence crime for which a prison sentence may be imposed. There is no fiscal impact as these reports are already completed for these crimes.

#### ***The Out Years***

The annualized ongoing fiscal impact identified above would continue into the future subject to the number of violations.

**OLR Bill Analysis****sHB 7299*****AN ACT CONCERNING STRENGTHENING LAWS CONCERNING DOMESTIC VIOLENCE.*****SUMMARY**

This bill makes various changes to laws concerning crimes against an individual.

The bill:

1. expands the conduct that constitutes stalking to include conduct that causes substantial “emotional distress;”
2. specifies that electronic or social media are among the methods, devices, or means by which conduct that constitutes stalking may occur;
3. broadens the strangulation statutes to include suffocation when a person obstructs another person’s nose or mouth;
4. increases the penalty for violations of release conditions when the violation involves certain conduct; and
5. requires a presentence investigation for anyone convicted of a family violence crime for which a prison sentence may be imposed and prohibits them from waiving the investigation.

The bill also makes conforming and technical changes.

EFFECTIVE DATE: October 1, 2017

**STALKING*****3<sup>rd</sup> Degree Stalking***

Under existing law, a person is guilty of 3<sup>rd</sup> degree stalking, a class



B misdemeanor, when he or she recklessly causes another person to reasonably fear for his or her physical safety by wilfully and repeatedly following or lying in wait for the other person. The bill expands the conduct that constitutes 3<sup>rd</sup> degree stalking to include any such conduct that would cause another person to reasonably suffer substantial emotional distress.

Under the bill, “emotional distress” means significant mental or psychological suffering or distress that may or may not require medical or other professional treatment or counseling.

By law, a class B misdemeanor is punishable by up to six months in prison, a fine of up to \$1,000, or both.

### ***2<sup>nd</sup> Degree Stalking***

The bill expands the conduct that constitutes 2<sup>nd</sup> degree stalking to include knowingly engaging in a course of conduct directed at a specific person that would cause a reasonable person to suffer substantial emotional distress.

Under existing law, a person commits 2nd degree stalking, a class A misdemeanor, by (1) knowingly engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for his, her, or a third person's physical safety or (2) intentionally, and for no legitimate purpose, engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear that his or her employment, business, or career is threatened. In the latter case, the actor must (1) telephone, appear at, or initiate communication with the victim at the victim's workplace or business and (2) have previously and clearly been told to stop. This excludes situations under which the actor's conduct is protected by the U.S. or Connecticut constitutions.

By law, a class A misdemeanor is punishable by up to one year in prison, a fine of up to \$2,000, or both.

### ***1<sup>st</sup> Degree Stalking***

Because 1st degree stalking is committed when a person has been previously convicted of 2nd degree stalking, the bill's changes also broaden that statute. By law, a person is guilty of 1st degree stalking, a class D felony, when, after a conviction for 1st or 2nd degree stalking he or she commits 2nd degree stalking.

By law, a class D felony is punishable by up to five years in prison, a fine of up to \$5,000, or both.

## **STRANGULATION OR SUFFOCATION**

### ***3<sup>rd</sup> Degree Strangulation or Suffocation***

Under existing law, a person commits 3<sup>rd</sup> degree strangulation, a class A misdemeanor, if he or she recklessly restrains another person by the throat or neck and impedes the other person's breathing or blood circulation. The bill adds suffocation to this crime and expands the conduct that constitutes the crime to include impeding another person's breathing or blood circulation by recklessly obstructing the other person's nose or mouth.

### ***2<sup>nd</sup> Degree Strangulation or Suffocation***

Existing law makes a person guilty of 2<sup>nd</sup> degree strangulation, a class D felony, when he or she intentionally and actually impedes another person's breathing or blood circulation by restraining the person by the throat or neck. The bill adds suffocation to this crime and expands the conduct that constitutes the crime to include intentionally and actually impeding another person's breathing or blood circulation by obstructing the other person's nose or mouth.

### ***1<sup>st</sup> Degree Strangulation or Suffocation***

The bill adds suffocation to the 1<sup>st</sup> degree strangulation crime. Because 1<sup>st</sup> degree strangulation is committed when a person has been previously convicted of the 2nd degree crime, the bill's changes also broaden the 1<sup>st</sup> degree crime.

Under existing law, a person commits 1<sup>st</sup> degree strangulation, a class C felony, if he or she (1) commits 2<sup>nd</sup> degree strangulation more

than once or (2) commits 2<sup>nd</sup> degree strangulation and either causes serious physical injury or uses or attempts to use a dangerous instrument in committing the crime.

By law, a class C felony is punishable by one to 10 years in prison, a fine of up to \$10,000, or both.

### ***Unlawful Restraint and Assault***

Under the bill, as is the case under existing law for strangulation, no one can be found guilty of strangulation or suffocation and 1<sup>st</sup> or 2<sup>nd</sup> degree unlawful restraint or assault for the same incident; however, the person may be charged with all three crimes in the same information (charging document).

### **VIOLATIONS OF RELEASE CONDITIONS**

The bill increases the penalty for 1<sup>st</sup> and 2<sup>nd</sup> degree violation of release conditions if the violation involves (1) restraining another person or the person's liberty or (2) threatening, harassing, assaulting, molesting, sexually assaulting, or attacking the other person. Under the bill, violation that involves this conduct increases the penalty from:

1. a class D felony to a class C felony for the 1<sup>st</sup> degree crime and
2. a class A misdemeanor to a class D felony for the 2<sup>nd</sup> degree crime.

#### ***1<sup>st</sup> Degree Violation of Release Conditions***

Under existing law, it is a 1<sup>st</sup> degree violation of release conditions for a person (1) charged with a felony and (2) released on nonfinancial conditions set by a bail commissioner, court, or police officer in family violence cases, to intentionally violate one or more of the conditions.

#### ***2<sup>nd</sup> Degree Violation of Release Conditions***

Under existing law, it is a 2<sup>nd</sup> degree violation of release conditions for a person (1) charged with a misdemeanor or motor vehicle violation that carries a term of imprisonment and (2) released on nonfinancial conditions set by a bail commissioner, court, or police

officer in family violence cases, to intentionally violate one or more of the conditions.

### **PRESENTENCE INVESTIGATION**

Existing law, unchanged by the bill, requires a presentence investigation for anyone convicted of a felony for the first time in Connecticut. The court may request it for any crime or offense other than a capital felony or murder with special circumstances (the judge does not have discretion when imposing a sentence for these crimes as he or she does with most crimes). Probation officers prepare the report, which includes information on the circumstances of the offense; the victim's attitude; and the defendant's criminal record, social history, and present condition.

The bill (1) requires a presentence investigation for anyone convicted of a family violence crime for which a prison sentence may be imposed and (2) prohibits such a defendant from waiving it.

A “family violence crime” is a crime that, in addition to its other elements, contains an element of family violence (i.e., an incident between family or household members that either causes physical injury or creates fear that physical injury is about to occur, but does not include verbal abuse or arguments).

### **COMMITTEE ACTION**

Judiciary Committee

Joint Favorable Substitute

Yea 38      Nay 0      (04/04/2017)